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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,109	01/28/2004	Amir Belson	26427-711.201	4426

7590 01/16/2007

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EXAMINER	
KASZTEJNA, MATTHEW JOHN	
ART UNIT	PAPER NUMBER
3739	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/767,109	BELSON ET AL.	
	Examiner	Art Unit	
	Matthew J. Kasztejna	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 January 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 January 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to because of the poor quality of the figures Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7-13 and 16-26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,251,611 to Zehel et al.

In regards to claims 1-3, 9-11 and 16-18, Zehel et al. disclose a method of treating an obstructed region of tissue within a body, comprising: advancing an elongate device into the body through an opening, the elongate device having a proximal portion and a selectively steerable distal portion 12, the elongate device having a plurality of segments 19; selectively steering the distal portion to assume a selected curve along a desired path within the body which avoids contact with tissue; and further advancing the elongate device through the body and towards the region of tissue to be treated while controlling the proximal portion of the device to assume the selected curve of the distal portion (see Figs. 1-2 and Col. 4, Line 62 – Col. 5, Line 45).

In regards to claims 4-5, 7-8 and 24-26, Zehel et al. disclose a method of treating an obstructed region of tissue within a body, wherein advancing the elongate device comprises advancing the elongate device through the opening defined in a thoracic cavity, cranium, intercostals space and peritoneal cavity (see Col. 1, Lines 13-19 and Col. 11, Lines 45-55).

In regards to claims 12-13, Zehel et al. disclose a method of treating an obstructed region of tissue within a body, wherein controlling the proximal portion

comprises automatically controlling the proximal portion and wherein automatically controlling comprises controlling the proximal portion via a computer (see Col. 4, Lines 40-47).

In regards to claims 19-23, Zehel et al. disclose a method of treating an obstructed region of tissue within a body, wherein further advancing the elongate device comprises advancing the device through tissue adjacent to the region of tissue to be treated and treating the region of tissue to be treated (See Col. 5, Line 47 – Col. 6, Line 10 and Col. 10, Lines 20-37).

Claims 1-3, 5 and 7-23 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,837,846 to Jaffe et al.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

In regards to claims 1-3, 5, 7-11 and 16-18, Jaffe et al. disclose a method of treating an obstructed region of tissue within a body, comprising: advancing an elongate device into the body through an opening, the elongate device having a proximal portion and a selectively steerable distal portion, the elongate device having a plurality of segments; selectively steering the distal portion to assume a selected curve along a desired path within the body which avoids contact with tissue; and further advancing the

elongate device through the body and towards the region of tissue to be treated while controlling the proximal portion of the device to assume the selected curve of the distal portion (see Figs. 4-5 and 11-12).

In regards to claims 12-13, Jaffe et al. disclose a method of treating an obstructed region of tissue within a body, wherein controlling the proximal portion comprises automatically controlling the proximal portion and wherein automatically controlling comprises controlling the proximal portion via a computer (see Col. 4, Lines 34-67).

In regards to claims 14-15, Jaffe et al. disclose a method of treating an obstructed region of tissue within a body, further comprising measuring an axial position change of the elongate device via a datum while advancing the elongate device and measuring a rotational or radial position change of the elongate device via a datum while manipulating the elongate device (see Fig. 4 and Col. 5, Lines 5-65).

In regards to claims 19-23, Jaffe et al. disclose a method of treating an obstructed region of tissue within a body, wherein further advancing the elongate device comprises advancing the device through tissue adjacent to the region of tissue to be treated and treating the region of tissue to be treated (see Fig. 4 and Col. 10, Lines 10-40).

Claims 1-3, 6, 9-11 and 16-20 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent Application Publication No. 2003/0130598 to Manning et al.

In regards to claims 1-3, 6, 9-11 and 16-20, Manning et al. disclose a method of treating an obstructed region of tissue within a body, comprising: advancing an

elongate device into the body through an opening defined in a heart, the elongate device having a proximal portion and a selectively steerable distal portion, the elongate device having a plurality of segments; selectively steering the distal portion to assume a selected curve along a desired path within the body which avoids contact with tissue; and further advancing the elongate device through the body and towards the region of tissue to be treated while controlling the proximal portion of the device to assume the selected curve of the distal portion (see Figs. 1-4 and paragraphs 0008-0018).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJK

1/3/7

LINDA C. M. DVORAK
SUPERVISORY PATENT EXAMINER
GROUP 3700